

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

**CHRISTOPHER WILSON, individually and on)
behalf of all others similarly situated, et al.,)**

Plaintiffs,)

v.)

**DIRECT BUY, INC.,)
UNITED CONSUMERS CLUB, INC., and)
DIRECTBUY HOLDINGS, INC.,)**

Defendants.)

CASE NO. 3:09-CV-00590 (JCH)

APRIL 12, 2011

**MOTION FOR LEAVE TO FILE
BRIEF *AMICUS CURIAE* OF THE ATTORNEYS GENERAL OF
CONNECTICUT, TENNESSEE, ALASKA, ARIZONA, ARKANSAS, COLORADO,
DELAWARE, THE DISTRICT OF COLUMBIA, FLORIDA, GEORGIA, IDAHO,
ILLINOIS, IOWA, LOUISIANA, MAINE, MARYLAND, MASSACHUSETTS,
MICHIGAN, MINNESOTA, MISSISSIPPI, MISSOURI, MONTANA, NEVADA, NEW
HAMPSHIRE, NEW MEXICO, NEW YORK, NORTH DAKOTA, OHIO, OKLAHOMA,
OREGON, PUERTO RICO, RHODE ISLAND, SOUTH CAROLINA, SOUTH DAKOTA,
TEXAS, UTAH, VERMONT, WASHINGTON, AND WEST VIRGINIA IN OPPOSITION
TO THE PROPOSED SETTLEMENT**

The Attorneys General¹ of the signatory and supporting states (hereinafter “the Attorneys General”), make this special appearance² to respectfully request that this Honorable Court grant leave for them to file their Brief Amicus Curiae in Opposition to the Proposed Settlement Agreement in this action.

Among other responsibilities, the Attorneys General have mandates from their respective States to protect consumers. The Attorneys General are granted broad powers by their respective legislatures to accomplish that goal. The Attorneys General are also statutorily empowered by the United States Congress to receive and review all class action settlements. *Class Action Fairness Act of 2005*, Pub. L. No. 109-2, 119 Stat. 4. (“CAFA”). CAFA not only contemplates a role for settlement review by the Attorneys General, but it keys the earliest date that a final order can be entered to when governmental notice of the settlement is provided. *See* 28 U.S.C. § 1715(d) (stating that final order may not be issued earlier than 90 days after the appropriate federal and state official are served with notice).

While “[d]istrict courts have broad discretion to grant or deny permission to participate as amicus curiae,” *Dist. Lodge 26 of the Int’l Ass’n of Machinists & Aero. Workers, AFL-CIO v.*

¹ With regard to Georgia, the Administrator of the Fair Business Practices Act, appointed pursuant to O.C.G.A. 10-1-395, is statutorily authorized to undertake consumer protection functions for the State of Georgia.

² The Attorneys General come before this Honorable Court solely for the purpose of presenting their motion to file a brief *amici curiae* herein and, with leave of the Court, file that document. The Attorneys General are not submitting to the Court’s jurisdiction except as *amici* and the special appearance is without prejudice to the States’ ability to enforce and investigate claims related to the issues under dispute.

United Techs. Corp., 3:09-cv-1494 (JCH), 2009 U.S. Dist. LEXIS 99379, at *2 (D. Conn. Oct. 23, 2009) (citing *Pennsylvania Environmental Defense Foundation v. Bellefonte Borough*, 718 F.Supp. 431, 434 (M.D.Pa.1989)), at the appellate level federal and state governments are allowed to submit amicus curiae briefs without leave of court. *See* F.R.A.P. 29(a).

The Attorneys General have a significant interest in the fairness of proposed class action settlements, and are well suited to act as *amici* of this Court. The Attorneys General have gained extensive experience while negotiating with and litigating against those businesses that employ unfair or deceptive business practices and have reached literally hundreds, if not thousands of settlements with defendants. The Attorneys General review each settlement offer and judgment request to ensure fairness as it regards both monetary and injunctive relief contained therein.

Because of the experience gained in reaching those settlements and achieving those judgments, the Attorneys General are ideal resources to assist the Court in reaching its decision as to what is fair to consumers affected by such settlements.

According to the proposed schedule, granting leave for the Attorneys General to file their proposed Brief *Amici Curiae*, will not delay the prospective May 2011, fairness hearing on the proposed settlement.

For all the foregoing reasons, the Attorneys General respectfully request that this Court grant their motion and Order the Clerk of the Court to file their Brief *Amici Curiae* herein. The proposed Brief accompanies this submission.

Respectfully submitted,³

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³ This brief is supported by Attorneys General John J. Burns of Alaska, Tom Horne of Arizona, Dustin McDaniel of Arkansas, John Suthers of Colorado, Joseph R. Biden, III of Delaware, Irvin B. Nathan of the District of Columbia (Acting), Pamela Jo Bondi of Florida, Lawrence Wasden of Idaho, Lisa Madigan of Illinois, Tom Miller of Iowa, James D. Caldwell of Louisiana, William J. Schneider of Maine, Douglas F. Gansler of Maryland, Martha Coakley of Massachusetts, Bill Schuette of Michigan, Lori Swanson of Minnesota, Jim Hood of Mississippi, Chris Koster of Missouri, Steve Bullock of Montana, Catherine Cortez Masto of Nevada, Michael Delaney of New Hampshire, Gary King of New Mexico, Eric Schneiderman of New York, Wayne Stenehjem of North Dakota, Mike Dewine of Ohio, E. Scott Pruitt of Oklahoma, John Kroger of Oregon, Guillermo Somoza-Colombani of Puerto Rico, Peter Kilmartin of Rhode Island, Alan Wilson of South Carolina, Marty J. Jackley of South Dakota, Greg Abbott of Texas, Mark Shurtleff of Utah, William H. Sorrell of Vermont, Rob McKenna of Washington, and Darrell V. McGraw, Jr. of West Virginia. This brief is also supported by the Georgia Governor's Office of Consumer Affairs, through John Sours, Administrator, Fair Business Practices Act.

CERTIFICATE OF SERVICE

I, Matthew F. Fitzsimmons, hereby certify that on April 12, 2011, a copy of the foregoing was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing, and as set forth below. Parties may access this filing through the Court's CM/ECF System.

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Dated at Hartford, Connecticut, this the 12th day of April, 2011.

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